

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1421 Madison County

SPONSOR(S): Beshears

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Affairs Committee		Nelson	Hamon

SUMMARY ANALYSIS

HB 1421 provides that the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation is authorized to issue an alcoholic beverage license to a motel or hotel having at least 45 guest rooms in Madison County.

This bill has an effective date of upon becoming a law.

House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.20, F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Alcoholic Beverage Licenses

The Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation licenses the alcoholic beverage industry, collects and audits taxes and fees paid by the licensees, and enforces the state's Beverage Law, chs. 561-565 and 567-569, F.S.

Although there is no limit on the number of licenses that may be issued to sell malt beverages and wine, s. 561.20(1), F.S., restricts the number of liquor licenses issued in any county to one license per 7,500 residents. Licenses issued pursuant to s. 561.20(1), F.S., are referred to as quota licenses. In order to obtain a quota license, a party must either buy an existing license or enter a drawing to win the right to apply for the license (if the number of applicants exceeds the available licenses). The annual fees for the license vary from \$624 to \$1820, depending on the population of a county. Additionally, there is a one-time (Hughes Act) fee of \$10,750, which is used for alcohol and drug abuse education, treatment and prevention programs.¹

Subsection (2) of s. 561.20, F.S., provides numerous exemptions to the quota limitation, providing for issuance of special licenses to specified types of businesses, including three categories of hotels, motels, or motor courts:²

- any bona fide hotel, motel, or motor court of not fewer than 80 guest rooms in any county having a population of less than 50,000 residents;
- any bona fide hotel, motel, or motor court of not fewer than 100 guest rooms in any county having a population of 50,000 residents or greater; and
- any bona fide hotel or motel located in a historic structure with fewer than 100 guest rooms which derives at least 51 percent of its gross revenue from the rental of hotel or motel rooms, which is licensed as a public lodging establishment; and a bona fide hotel or motel that is a historic structure with no fewer than 10 and no more than 25 rooms in a municipality with a 1998 population between 25,000 and 35,000, which is in a charter county.

This special license allows the sale and consumption of alcoholic beverages on the licensed premises of a hotel or motel that derives at least 60 percent of its gross revenue from the rental of rooms and the sale of food and nonalcoholic beverages. See, s. 561.20(2)(a)1., F.S. The annual fees for this license are similar to those for a quota license.³

No local laws may require a greater number of hotel rooms within these categories.

Madison County, Florida

Madison County has three municipalities: Madison, Greenville and Lee. In 2012, the county had an estimated population of 19,227, according to the University of Florida's Bureau of Economic and Business Research.⁴

¹Section. 561.19, F.S.

² This exemption is known as a "Special Motel/Hotel" license, or Series "S."

³ <http://www.myfloridalicense.com/dbpr/abt/faq.html>.

⁴ <http://www.bebr.ufl.edu/data/county/Madison>.

Until last year, Madison County was one of four “dry” counties in Florida.⁵ A “dry” county in this state has not passed a referendum allowing the sale of beverages with an alcohol content exceeding 6.243 percent.⁶ On August 28, 2012, Madison County electors voted to permit the sale of intoxicating liquors.⁷

One impetus for this change was economic. The expectation is that a county with a low population density can increase job opportunities and experience other pecuniary benefits by offering services that are not currently available. Some major restaurant chains will not locate in a dry county, and a county may lose business to surrounding areas because a motel/hotel facility is not licensed to serve alcoholic beverages.

Based on its population, Madison County now is entitled to three new quota liquor licenses. The Division of Alcoholic Beverages and Tobacco accepted entry forms for 45 days beginning January 7, 2013, for inclusion in a double random drawing.⁸ An applicant has another 45 days from the date the Division mails the notice of selection to file an application. A license is then issued, if the applicant is found to be qualified. Any portion of the drawing results of a particular county which reveals the rank order of persons not receiving notice of selection is confidential and exempt from the provisions of s. 119.07(1), F.S.,⁹ until such time as all of the licenses from that county’s drawing have been distributed.¹⁰ The Division is required to process a completed application within 90 days of receipt and acceptance.¹¹

Effect of Proposed Changes

HB 1421 provides that, notwithstanding s. 561.20, F.S., the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation is authorized, upon application, to issue an alcoholic beverage license to a motel or hotel having at least 45 guest rooms in Madison County.

Currently, no motel or hotel in Madison County qualifies for the “Special Motel/Hotel” license, as none of these facilities has 80 or more guest rooms. There are less than 10 licensed motels and hotels in the county,¹² and three of these motels/hotels appear to meet the criteria for the issuance of an alcoholic beverage license pursuant to this bill.¹³

The bill has an effective date of upon becoming law.

B. SECTION DIRECTORY:

Section 1: Provides for the authorization of an alcoholic beverage license for certain Madison County motels and hotels.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

⁵ Lafayette, Liberty, Madison and Washington counties.

⁶ *See*, ch. 567, F.S., “Local Option Elections.”

⁷ <http://www.votemadison.com/index.php?op=F&ss=252935&nomenu=Y&spanish=N>.

⁸ <http://www.myfloridalicense.com/dbpr/abt/archives.html#madisonapplicationperiod>.

⁹ This provision requires every person who has custody of a public record to permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

¹⁰ *See, supra*, note 1.

¹¹ *See*, s. 120.60, F.S.

¹² <https://www.myfloridalicense.com>.

¹³ Honey Lake Plantation Resort and Spa in Greenville, Best Western Plus Madison Inn and Madison Days Inn.

IF YES, WHEN? January 25, 2013

WHERE? *The Madison Enterprise Recorder*, a weekly newspaper of general circulation published in Madison County, Florida.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The bill exempts Madison County hotels and motels with at least 45 guest rooms from all provisions of s. 561.20, F.S. This statute contains requirements for quota licenses and additional requirements with regard to special licenses.

The bill does not specify that any alcoholic beverage license it authorizes is a "special" license.

The bill provides that the director (presumably of the Division of Alcoholic Beverages and Tobacco) has the authority to revoke or suspend any such license for violations of the Beverage Law and regulations of the state. The Sponsor may want to consider removing this language as the Division has additional powers to enforce the state's beverage laws—such as beverage and personal property seizure—beyond the revocation and suspension of licenses.

Other Comments

House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.20, F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A